



(916) 445-6158

September 26, 1980

Dear Mr. F_____:

This is in response to your letter of September 16, 1980, to Mr. Glenn Rigby in which you ask whether your parents quitclaiming their joint tenancy interest to you constitutes a change in ownership, thereby triggering a reappraisal of the property. In your letter you state that initially you parents took title as joint tenants with you to the property solely for loan qualification purposes.

Section 60 of the Revenue and Taxation Code defines a change in ownership as "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the fee interest." Board Rule No. 462 (1) (1) specifically excludes from this definition the transfer of bare legal title. Therefore, the answer to your question depends on whether your parents when they were added to the deed actually acquired an equitable ownership in the property. If so, there would be a change in ownership in the property. If so, there would be a change in ownership when they transfer the property back to you. If not, then they hold bare legal title and a subsequent transfer is not a change in ownership. Ultimately, resolution of the issue turns on the facts and proof thereof, in each particular case.

The basic approach that we take to this problem is to hypothesize that prior to the second conveyance the parents and son had a title dispute resulting in a court case to determine the respective ownership rights of the parties. A court would look to the evidence presented to determine whether the parents had any ownership rights. The best evidence is a written agreement between the parties executed prior to, or at the time of the conveyance of the property to them, setting forth that the parents had no equitable interest in the property. Other evidence to support the contention that the parents had no ownership interest that a court might consider is whether the son had made the down payment and all monthly payments on the property since the conveyance to them. If so, the court would probably hold that the father never had an equitable interest in the property. If, on the other hand, the parents had contributed a portion of the money towards the purchase price of the property, the court would probably hold that they had more than "bare legal title."

In any event, there is some room for discretion for the county assessor and county counsel as to what to accept as evidence and to the evaluation of evidence in these types of transactions.

Very truly yours,

MSS:jlh